



April 17, 2000

Lieutenant Arturo Valdez  
City of McAllen Police Department  
1501 Pecan Boulevard  
McAllen, Texas 78501

OR2000-1498

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code (the "Act"). Your request was assigned ID# 134616.

The McAllen Police Department (the "department") received a request for information relating to a specified case number. You have submitted the responsive police report for our review. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

Section 552.101 of the Act excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Statutory confidentiality under section 552.101 requires express language making certain information confidential or stating that information shall not be released to the public. *See* Open Records Decision No. 478 at 2 (1987). You claim that the submitted report is confidential under section 552.101 in conjunction with section 58.007 of the Family Code.<sup>1</sup> Section 58.007 governs records relating to juvenile offenders. In this instance, the person identified as the suspect in the submitted report was nineteen years of age on the date of the

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<sup>1</sup>The Seventy-fourth Legislature repealed former section 51.14 of the Family Code, which you cite, and replaced it with section 58.007 of the Family Code. Section 58.007 is applicable to conduct that occurred on or after January 1, 1996. *See* Act of May 27, 1995, 74<sup>th</sup> Leg., R.S., ch. 262, §§ 53, 100, 106, 1995 Tex. Gen. Laws 2517, 2552-53, 2590, 2591; *see also* Open Records Decision No. 644 (1996) (discussing repeal of former section 51.14 and enactment of section 58.007).

alleged offense. Accordingly, the suspect was not a “child” for the purposes of title 3 of the Family Code, which includes section 58.007. *See* Fam. Code §§ 51.02(2) (providing that in title 3 of the Family Code, “child” means a person who is ten years of age or older and under seventeen years of age), 58.007(c) (providing that “law enforcement records and files *concerning a child* . . . may not be disclosed to the public”) (emphasis added). Thus, the submitted report is not a law enforcement record or file “concerning a child” that is within the ambit of section 58.007. Therefore, it may not be withheld from disclosure under that provision of the Family Code in conjunction with section 552.101 of the Government Code. As the department has not raised any other exception to the disclosure of the report, it must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

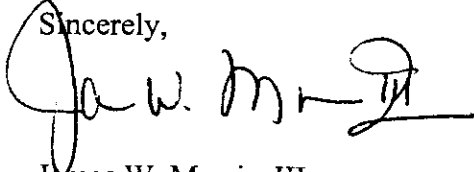
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III', with a stylized flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ch

Ref: ID# 134616

Encl. Submitted documents

cc: Ms. Rosie Ochoa  
Texas Migrant Council  
2120 South 30<sup>th</sup>  
McAllen, Texas 78503  
(w/o enclosures)